# IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

HEATHER TURDO 27 West Allen St. Allentown, PA 18102	: CIVIL ACTION
Plaintiff,	: : No.:
v.  AMAZON.COM.DEDC, LLC.  d/b/a AMAZON  705 Boulder Dr.  Breinigsville, PA 18031  Defendant.	: : : : : : : : : : : : : : : : : : :

### **CIVIL ACTION COMPLAINT**

Heather Turdo (hereinafter referred to as "Plaintiff," unless indicated otherwise) by and through her undersigned counsel, hereby avers as follows:

### INTRODUCTION

1. Plaintiff has initiated this action to redress violations by Amazon.com.dedc, LLC. d/b/a Amazon (hereinafter referred to as "Defendant") of the American's with Disabilities Act, as amended ("ADA" – 42 U.S.C. §§ 12101 et seq.) and the Pennsylvania Human Relations Act ("PHRA"). As a direct consequence of Defendant's unlawful actions, Plaintiff seeks damages as set forth herein.

<sup>&</sup>lt;sup>1</sup> Plaintiff's claims under the PHRA are referenced herein for notice purposes. She is required to wait 1 full year before initiating a lawsuit from date of dual-filing with the PHRC. Plaintiff must however file her lawsuit in advance of same because of the date of issuance of her federal right-to-sue letter under the ADA. Plaintiff's PHRA claims however will mirror identically her federal claims under the ADA.

#### JURISDICTION AND VENUE

- 2. This Court has original subject matter jurisdiction over the instant action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(4) because it arises under the laws of the United States and seeks redress for violations of federal laws.
- 3. This Court may properly assert personal jurisdiction over Defendant because its contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendant to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945) and its progeny.
- 4. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this district because Defendant is deemed to reside where it is subjected to personal jurisdiction, rendering Defendant a resident of the Eastern District of Pennsylvania.
- 5. Plaintiff is proceeding herein (in part) under the ADA after properly exhausting all administrative remedies with respect to such claims by timely filing a Charge of Discrimination with the Equal Employment Opportunity Commission ("EEOC") and by filing the instant lawsuit within ninety ("90") days of receiving a notice of dismissal and/or right to sue letter from the EEOC.

#### **PARTIES**

- 6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
  - 7. Plaintiff is an adult individual, with an address as set forth in the caption.

- 8. Defendant is a private company engaged in the business of selling products through the internet. Plaintiff physically worked at the above-captioned address, one of Defendant's Fulfillment Centers.
- 9. At all times relevant herein, Defendant acted by and through its agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for the Defendant.

#### FACTUAL BACKGROUND

- 10. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
  - 11. Plaintiff was hired by Defendant in or about May of 2011.
  - 12. Throughout her tenure with Defendant, Plaintiff performed in several capacities.
- 13. In or about September of 2013, Plaintiff was offered and accepted the position of Process Assistant ("PA" a Tier III position) at ABE2 one of several buildings located at Defendant's Fulfillment Center in Breinigsville, PA.
- 14. In or about 2016, Plaintiff was suffering from disabilities related to her knee, which at times prevented her from performing some daily life activities, including but not limited to lifting, prolonged standing, crawling, squatting, and kneeling.
- 15. In or about April of 2016, Plaintiff apprised Defendant of her aforesaid health conditions and submitted a note outlining her restrictions which indicated that she could work with some limitations, including "limited lifting to 25lbs, avoid standing [more than] 1 hr w/o sitting break, avoid crawling/squatting/kneeling repetitively."
- 16. Following her April, 2016 doctor's note (discussed *supra*), Plaintiff continued to perform her job as a PA with the aforesaid limitations.

- 17. In or about June of 2016, Plaintiff requested an approximate three-month medical leave of absence to undergo and recover from knee surgery (a reasonable accommodation under the ADA).
- 18. Plaintiff's aforesaid three-month medical leave commenced on or about June 11, 2016 and Plaintiff was released to return to work with restrictions in or about September of 2016. Plaintiff's restrictions included "sedentary work", no lifting greater than fifteen pounds, no kneeling, crawling, squatting, crouching, or running and limited bending, standing, walking, and reaching overhead.
- 19. Despite her aforesaid health conditions and restrictions as of September 2016, Plaintiff was still able to perform her job as a PA but was given task modifications such as using a chair when needed and limited standing and walking.
- 20. Plaintiff continued to work in her PA position at Defendant's ABE2 building until in or about May of 2017, at which point in time Plaintiff transferred from her PA position to a Field Transportation Specialist position, also known as a Yard Specialist (a Tier III position).
- 21. Despite Plaintiff's ongoing health conditions and limitations (discussed *supra*), Plaintiff performed the role of a Yard Specialist without issue for several months until Plaintiff was told by Defendant's management that she would have to start performing an additional task called truck jockeying, which included driving up to 50-foot trailers and climbing in and out of trucks.
- 22. In or about September of 2017, Plaintiff informed Defendant's management that due to her health conditions, she could not perform the new additional task of truck jockeying.<sup>2</sup> In response, Defendant instructed Plaintiff to provide medical documentation regarding same.

<sup>&</sup>lt;sup>2</sup> Plaintiff did attempt to perform the aforesaid truck jockeying duties but was unable to do so because it was cause significant pain to her knee.

- 23. On or about October 16, 2017, Plaintiff provided medical documentation indicating that she was unable to perform the task of truck jockeying due to her aforesaid knee condition.
- 24. For approximately four weeks after first informing Defendant's management of her inability to perform the task of truck jockeying, Plaintiff continued to work in her position as a Yard Specialist without performing any truck jockeying duties.
- 25. During this approximate four weeks, there was plenty of work for Plaintiff absent any truck jockeying duties and she continued to work 40 hours per week.
- 26. In or about late October of 2017, Plaintiff was informed by Defendant's Accommodation Team that they would not be able to accommodate her restrictions and placed her on an involuntary leave of absence.
- 27. Defendant could have easily accommodated Plaintiff's restrictions in her aforesaid Yard Specialist position, as (1) Defendant had been doing so for approximately four weeks before Defendant placed her on a involuntary medical leave; (2) truck jockeying was not an essential function of her job as a Yard Specialist and would only performed minimally compared to all of her other duties; and (3) absent the aforesaid truck jockeying tasks, there was still plenty of duties for Plaintiff to work 40 hours a week as a Yard Specialist.
- 28. During her aforesaid forced medical leave, Plaintiff was contacted by Jennifer Reiner (Regional Accommodation Manager). During her communications with Ms. Reiner, Plaintiff expressed that she would be willing to perform any job given to her within her restrictions, including her prior PA position within Defendant's ABE2 building (which was within her restrictions).

- 29. At one point during her involuntary medical leave, Ms. Reiner contacted Plaintiff and offered her a PA position but within Defendant's ABE3 building or Defendant's ABE4 building (versus the ABE2 building that Plaintiff had previously worked in).
- 30. Defendant's ABE4 building is considered a "bulk" building where no items are below 10 pounds and in order to work in said building, Plaintiff would be required to lift over 50 pounds. Therefore, Plaintiff was not able to work within Defendant's ABE4 building as a PA due to her lifting restrictions.
- 31. Furthermore, unlike Defendant's ABE2 building, Defendant's ABE3 building did not have a conveyor belt, therefore, Plaintiff would be required to walk, lift, bend, and stand significantly more than she was doing at Defendant's ABE2 building and therefore said position did not fall within her restrictions.
- 32. Based on the foregoing, Plaintiff had to reject the aforesaid PA positions being offered to her but again reiterated that she could perform her prior PA position in ABE2, other tier III or lower positions, or her prior role as a Yard Specialist absent the truck jockeying task (discussed *supra*).
- 33. Plaintiff was refused any other work at Defendant and effectively terminated from her position with Defendant, even though Defendant continually hires for jobs that Plaintiff previously inquired about and had numerous available roles that Plaintiff could have performed.
- 34. Plaintiff therefore believes and avers that she was placed on an involuntary medical leave, stonewalled, prohibited from returning to work, refused accommodations and effectively terminated from her employment in violation of the ADA.

#### COUNT I

# <u>Violations of the Americans with Disabilities Act, as amended ("ADA")</u> ([1] Actual/Perceived/Record of Disability Discrimination; [2] Retaliation; [3] Failure to Accommodate)

- 35. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.
- 36. Plaintiff therefore believes and avers that she was placed on an involuntary medical leave, stonewalled, prohibited from returning to work, and effectively terminated from her employment because of (1) her known and/or perceived disabilities; (2) her record of impairment; (3) her requests for reasonable accommodations; and/or (4) Defendant's failure to engage in the interactive process and accommodate her health conditions.
- 37. These actions as aforesaid constitute unlawful discrimination and retaliation under the ADA.

### WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

- A. Defendant is to promulgate and adhere to a policy prohibiting discrimination in the future against any employee(s);
- B. Defendant is to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendant's illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, benefits, training, promotions, reinstatement and seniority.
- C. Plaintiff is to be awarded punitive damages, as permitted by applicable law, in an amount believed by the Court or trier of fact to be appropriate to punish Defendant for their willful, deliberate, malicious and outrageous conduct and to deter Defendant or other employers from engaging in such misconduct in the future;

- D. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper, and appropriate (including but not limited to damages for emotional distress, pain, suffering, and humiliation); and
- E. Plaintiff is to be awarded the costs and expenses of this action and reasonable attorney's fees as provided by applicable federal and state law.

Respectfully submitted,

KARPF, KARPF & CERUTTI, P.C.

By:

Date: July 11, 2018

Ari. R. Karpf, Esq. 3331 Street Rd.

Two Greenwood Square, Suite 128

Bensalem, PA 19020

(215) 639-0801

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# IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

### CASE MANAGEMENT TRACK DESIGNATION FORM

Heather Turdo

CIVIL ACTION

<u>Felephone</u>	FAX Number	E-Mail Address	
(215) 639-0801	(215) 639-4970	akarpf@karpf-law.com_	
Date	Attorney-at-law	Attorney for	
7/11/2018	1	Piaintiff	
(f) Standard Management	- Cases that do not fall into	any one of the other tracks.	<b>(</b> X )
commonly referred to a the court. (See reverse management cases.)	s complex and that need sp side of this form for a deta	tracks (a) through (d) that are secial or intense management by siled explanation of special	( )
exposure to asbestos.		jury or property damage from	( )
•		arbitration under Local Civil Rule 53.2.	( )
<ul><li>(b) Social Security – Cases and Human Services de</li></ul>	requesting review of a dec enying plaintiff Social Secu	cision of the Secretary of Health writy Benefits.	( )
(a) Habeas Corpus - Cascs	brought under 28 U.S.C.	§ 2241 through § 2255.	()
SELECT ONE OF THE F	OLLOWING CASE MA	NAGEMENT TRACKS:	
plaintiff shall complete a C filing the complaint and ser side of this form.) In the designation, that defendant	ase Management Track De ve a copy on all defendants, event that a defendant do shall, with its first appears arties, a Case Management	lay Reduction Plan of this court, counsisignation Form in all civil cases at the time (See § 1:03 of the plan set forth on the rese not agree with the plaintiff regardinance, submit to the clerk of court and set Track Designation Form specifying the signed.	ime of everse g said rve on
Amazon.com.dedc, LI	LC. d/b/a Amazon	NO.	· ,
v.	:		

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## FOR THE EASTERN DISTRICT OF PENNSYLVANIA

#### DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 27 West Allen Street, Allentown, PA 18102				
Address of Defendant: 705 Boulder Drive, Breinigsville, PA 18031				
Place of Accident, Incident or Transaction: Defendant's place of business				
RELATED CASE, IF ANY:				
Case Number: Judge: Date Terminated:				
Civil cases are deemed related when Yes is answered to any of the following questions:				
1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?	No X			
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?	No X			
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?	No X			
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights  Yes  No  X				
I certify that, to my knowledge, the within case this court except as noted above.	ly terminated action in			
DATE.	4 / 91538 D. # (if applicable)			
CIVIL: (Place a √ in one category only)				
A. Federal Question Cases:  B. Diversity Jurisdiction Cases:				
1. Indemnity Contract, Marine Contract, and All Other Contracts 2. FELA 3. Jones Act-Personal Injury 4. Antitrust 5. Patent 6. Labor-Management Relations 7. Civil Rights 7. Civil Rights 8. Habeas Corpus 9. Securities Act(s) Cases 10. Social Security Review Cases 11. All other Federal Question Cases  (Please specify):  1. Insurance Contract and Other Contracts 2. Airplane Personal Injury 3. Assault, Defamation 4. Marine Personal Injury 5. Motor Vehicle Personal Injury 6. Other Personal Injury (Please specify): 7. Products Liability 8. Products Liability — Asbestos 9. All other Diversity Cases (Please specify):  (Please specify):				
ARBITRATION CERTIFICATION				
(The effect of this certification is to remove the case from eligibility for arbitration.)  I, Ari R. Karpf  , counsel of record or pro se plaintiff, do hereby certify:  Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:				
Relief other than monetary damages is sought.				
DATE: 7/11/2018 ARK2484 Attorney-at-Law / Pro Se Plaintiff Attorney L.	/ 91538 D. # (if applicable)			
NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.				

JS 44 (Rev. 06/17)

### **CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS	,			DEFENDANTS		
TURDO, HEATHER				AMAZON.COM.I	DEDC, LLC. d/b/a AMA	AZON
(b) County of Residence of	of First Listed Plaintiff  XCEPT IN U.S. PLAINTIFF CA	Lehigh SESI		County of Residence	of First Listed Defendant (IN U.S. PLAINTIFF CASES)	Lehigh ONLY)
,				NOTE: IN LAND CO THE TRACT	NDEMNATION CASES, USE T OF LAND INVOLVED.	
(c) Attorneys (Firm Name, A	Address, and Telephone Number	)		Attorneys (If Known)		
Karpf, Karpf & Cerutti,						•
Suite 128, Bensalem, PA	19020; (215) 639-08	01; akarpf@karpf-	law.com			
II. BASIS OF JURISDI	CTION (Place an "X" in O	ne Box Only)	III. CI	I TIZENSHIP OF PI	RINCIPAL PARTIES	(Place an "X" in One Box for Plaintif f
1 U.S. Government X 3 Federal Question		]	(For Diversity Cases Only) P1	FF DEF	and One Box for Defendant) PTF DEF	
Plaintiff	(U.S. Government)	loi a Party)	Citize		1 Incorporated or Print of Business In	ncipal Place 4 4
2 U.S. Government Defendant	4 Diversity (Indicate Citizenshi	p of Parties in Item III)	Citize	en of Another State	2 Incorporated and Poor of Business In	
				en or Subject of a reign Country	3 3 Foreign Nation	6 6
IV. NATURE OF SUIT		ly) RTS - RTS - As		DRIGHEURE/PUNNINY	Click here for: Nature BANKRUPTCY	of Suit Code Descriptions. OTHER STATUTES
CONTRACT  110 Insurance	PERSONAL INJURY	PERSONAL INJUR		5 Drug Related Seizure	' 422 Appeal 28 USC 158	375 False Claims Act
0 120 Marine	' 310 Airplane	0 365 Personal Injury -		of Property 21 USC 881	423 Withdrawal 28 USC 157	' 376 Qui Tam (31 USC 3729(a))
<ul> <li>I 130 Miller Act</li> <li>I 140 Negotiable Instrument</li> </ul>	' 315 Airplane Product Liability	Product Liability  367 Health Care/	אס נו	0 Other		400 State Reapportionment
150 Recovery of Overpayment & Enforcement of Judgment	' 320 Assault, Libel & Slander	Pharmaceutical Personal Injury			D 820 Copyrights	1 410 Antitrust 1 430 Banks and Banking
151 Medicare Act	' 330 Federal Employers'	Product Liability			0 830 Patent	450 Commerce
<ul> <li>152 Recovery of Defaulted</li> <li>Student Loans</li> </ul>	Liability ' 340 Marine	<ul> <li>368 Asbestos Personal Injury Product</li> </ul>			835 Patent - Abbreviated     New Drug Application	460 Deportation     470 Racketeer Influenced and
(Excludes Veterans)	' 345 Marine Product	Liability			D 840 Trademark	Corrupt Organizations
<ul> <li>153 Recovery of Overpayment of Veteran's Benefits</li> </ul>	Liability ' 350 Motor Vehicle	PERSONAL PROPER  370 Other Fraud		LABOR 0 Fair Labor Standards	' 861 HIA (1395ff)	480 Consumer Credit 490 Cable/Sat TV
160 Stockholders' Suits	' 355 Motor Vehicle	371 Truth in Lending		Act	0 862 Black Lung (923)	☐ 850 Securities/Commodities/
<ul> <li>190 Other Contract</li> <li>195 Contract Product Liability</li> </ul>	Product Liability 360 Other Personal	380 Other Personal     Property Damage	0 72	0 Labor/Management Relations	' 863 DIWC/DIWW (405(g)) 0 864 SSID Title XVI	Exchange  890 Other Statutory Actions
0 196 Franchise	Injury	385 Property Damage		0 Railway Labor Act	' 865 RSI (405(g))	891 Agricultural Acts
	' 362 Personal Injury - Medical Malpractice	Product Liability	75	l Family and Medical Leave Act		893 Environmental Matters     895 Freedom of Information
REAL PROPERTY :::	CIVIL-RIGHTS	ENGREE PRESENTED.		0 Other Labor Litigation	PEDERAGTAX SUITS	Act
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		Confinement				
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	Cite the U.S. Civil Sta ADA (42USC121		re filing (D	o not cite jurisdictional state	tes unless diversity):	
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VII DECLIECTED IN		ADA and the PA I		EMAND S	CHECK VES only	y if demanded in complaint:
VII. REQUESTED IN COMPLAINT:	UNDER RULE 2		, "	EMANU \$	JURY DEMANI	
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